

SENATE BILL NO. 412

INTRODUCED BY BRUEGGEMAN, HOLLENBAUGH, CALLAHAN

BY REQUEST OF THE HOUSE JOINT APPROPRIATIONS SUBCOMMITTEE ON LONG RANGE

PLANNING

A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING CERTAIN UNIVERSITY PROJECTS THAT DO NOT INVOLVE STATE APPROPRIATIONS FROM CERTAIN STATE CONSTRUCTION AND CONTRACTING LAWS; AMENDING SECTIONS 18-2-102 AND 20-25-308, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**NEW SECTION. Section 1. Exemption from state construction and contract laws for certain university projects.** (1) The board of regents may lease land or land and facilities to a private nonprofit foundation organized to solicit, manage, and administer nonstate funds, gifts, grants, donations, in-kind contributions, and revenue on behalf of a unit of the Montana university system for the purpose of constructing or renovating athletic facilities. The terms, guaranties, and agreements relating to a facility subject to this subsection must be negotiated in the best interests of the state and must include guarantees that a commitment of state appropriations for design, construction, operations, or maintenance is not expressed or implied. The terms, guaranties, and agreements are subject to review and approval by the board of regents. After approval, the board of regents shall submit a report to the budget director certifying that the conditions of this subsection have been satisfied.

(2) The design and construction of projects pursuant to subsection (1) are not subject to the requirements of Title 18, chapters 2 and 8, except that:

(a) the department of administration shall execute the provisions of 18-2-103(1)(a) and (1)(e); and

(b) the provisions of Title 18, chapter 2, part 4, apply to all labor other than donated labor.

**Section 2.** Section 18-2-102, MCA, is amended to read:

**"18-2-102. Authority to construct buildings.** (1) Except as provided in subsection (2), a building costing more than \$150,000 may not be constructed without the consent of the legislature. Legislative approval

1 of repair and maintenance costs as part of an agency's operating budget constitutes the legislature's consent.  
 2 When a building costing more than \$150,000 is to be financed in a manner that does not require legislative  
 3 appropriation of money, the consent may be in the form of a joint resolution.

4 (2) (a) The governor may authorize the emergency repair or alteration of a building and is authorized  
 5 to transfer funds and authority as necessary to accomplish the project. Transfers may not be made from the funds  
 6 for an uncompleted capital project unless the project is under the supervision of the same agency.

7 (b) The regents of the Montana university system may authorize the construction of revenue-producing  
 8 facilities referred to in 20-25-302 if they are to be financed wholly from the revenue from the facility.

9 (c) The regents of the Montana university system, with the consent of the governor, may authorize the  
 10 construction of a building that is financed wholly with federal or private money if the construction of the building  
 11 will not result in any new programs.

12 (d) The regents of the Montana university system may authorize the construction of facilities as provided  
 13 in [section 1].

14 ~~(d)~~(e) The department of military affairs, with the consent of the governor, may authorize the construction  
 15 of a building that is financed wholly with federal or private money on federal land for the use or benefit of the  
 16 state."

17

18 **Section 3.** Section 20-25-308, MCA, is amended to read:

19 **"20-25-308. Prohibition on transfer to foundation.** In order to implement the provisions of Article VIII,  
 20 section 12, of the Montana constitution, ownership of the following may not be transferred to a nonprofit  
 21 corporation or foundation established for the benefit of a unit of the university system unless full market value is  
 22 received for the transfer and laws applicable to the disposition of property are followed:

23 (1) money in the higher education funds provided for in 17-2-102;

24 (2) excess proceeds of money borrowed pursuant to 20-25-402; and

25 (3) except as provided in [section 1], real or personal property acquired with money listed in subsection  
 26 (1) or proceeds listed in subsection (2)."

27

28 NEW SECTION. **Section 4. Codification instruction.** [Section 1] is intended to be codified as an  
 29 integral part of Title 20, chapter 25, and the provisions of Title 20, chapter 25, apply to [section 1].

30

